



U.S. Department of Justice

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October 30, 2007

BY CM/ECF

Honorable Mary Pat Thyng
United States Magistrate Judge
United States District Court
for the District of Delaware
844 King Street
Wilmington, Delaware 19801

RE: United States v. Fuller, Cr. A. No. 07-04

Dear Magistrate Judge Thyng:

This case was indicted on January 9, 2007. On October 19, 2007, the defendant had a detention and identity hearing in the Southern District of Texas. The United States Magistrate Judge who heard the case in Texas released the defendant following the hearing. The United States filed a motion in the District of Delaware to revoke that decision under 18 U.S.C. § 3145 as soon as it received a written copy of the bail order.

Your Honor has scheduled an initial appearance in Delaware on November 1, 2007. The government believes, however, that the jurisdiction to hear the revocation motion lies with the District Court Judge assigned to this case. *See* 18 U.S.C. § 1345(a)(1); *United States v. Cisneros*, 328 F.3d 610, 615 (10th Cir. 2003) (holding that only the district judge in the charging district should review the bail order issued by a magistrate judge in the arresting district, and finding that an initial review by a magistrate judge in the charging district, while harmless error, was an improper procedure); *United States v. Torres*, 86 F.3d 1029, 1031 (11th Cir. 1996); *United States v. Evans*, 62 F.3d 1233, 1237-38 (9th Cir. 1995); David N. Adair, Jr., *The Bail Reform Act of 1984*, Third Edition at 33 (Federal Judicial Center 2006).

The docket sheet in this case does not indicate that the case has been assigned. Because the case is related to a number of others pending before the Honorable Joseph J. Farnan, Jr., the government expects that this case will be assigned to Judge Farnan; however, that, of course, is a matter for the Court to decide. The government does believe that it is the interests of the parties and judicial economy that the bail issue be heard *de novo* on November 1, 2007, and respectfully

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requests that the hearing be held on that date.

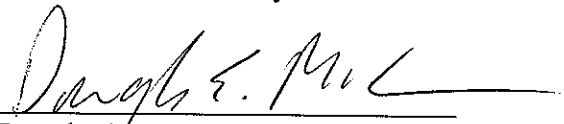
The government has ordered an expedited transcript of the October 19 hearing. The government understands that the transcript will not be ready prior to November 5, 2007. The government today obtained the audio recording of the October 19 hearing and is forwarding it to the Court by hand with this letter. Counsel for the government understands that the recording is about two hours long, but has not completed reviewing the recording to determine if it is complete.

Finally, for the Court's information, the government understands that Robert Turner, Esquire, of Houston Texas, will be entering his appearance in this case.

Very truly yours,

COLM F. CONNOLLY
United States Attorney

BY:


Douglas E. McCann
Assistant United States Attorney

Enclosure

cc: Robert Turner, Esquire